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Arizona Corporation Commission

DOCKETED

JAN 25 2005

Attorneys for Johnson Utilities Company

DOCKETED BY

*[Signature]*

BEFORE THE ARIZONA CORPORATION COMMISSION

IN THE MATTER OF THE APPLICATION  
OF JOHNSON UTILITIES COMPANY FOR  
AN EXTENSION OF ITS EXISTING  
CERTIFICATE OF CONVENIENCE AND  
NECESSITY FOR WATER AND  
WASTEWATER SERVICE.

DOCKET NO. WS-02987A-04-0288

**JOHNSON UTILITIES OPPOSITION TO  
DIVERSIFIED WATER UTILITIES,  
INC.'S APPLICATION TO INTERVENE**

Applicant Johnson Utilities Company ("JUC"), hereby responds in opposition to Diversified Water Utilities, Inc.'s Application to Intervene ("Application") for the reasons set forth hereinafter. In summary, the Application is based on misstatements of fact and Diversified Water Utilities, Inc. ("Diversified") has failed to establish that it has any interest in this proceeding.

This is Diversified's second application to intervene in a JUC CC&N extension request filed in the past two weeks and the assertions made by Diversified are virtually identical. However, in this case, the claims made by Diversified are, put bluntly, false. First, JUC and Diversified were **not** involved in a prior contested proceeding involving the area subject to JUC's requested CC&N extension in this docket. Application at 1-2. To the best of JUC's knowledge, the property at issue in this docket was **not** at issue in the docket that led to Decision No. 63690 (September 4, 2001) in any manner. Therefore, Commission Staff and the Administrative Law Judge could not have recommended that the area subject to the instant application be certificated to Diversified, even if that were somehow a basis for intervention. *Id.* at 2.

Similarly, Diversified's claim that it has a pending application to extend its CC&N into

1 the same area covered by JUC's application in this docket is false. To begin with, as stated in  
2 response to Diversified's earlier request, the application filed in Docket No. W-02859-04-0844  
3 was rejected by Commission Staff as insufficient. More importantly, based upon its review of  
4 that filing by Diversified, JUC asserts that the property at issue in this docket is **not** subject to  
5 Diversified's requested CC&N extension in Docket No. W-02859-04-0844.<sup>1</sup>

6 Based on the foregoing, Diversified clearly lacks any interest whatsoever in this  
7 proceeding and, therefore, its statement that it "will be directly and substantially affected" by a  
8 decision in this proceeding should be rejected. Indeed, it would appear that Diversified merely  
9 seeks to unduly broaden the issues and delay the adjudication by the Commission of JUC's  
10 request. Such an effort should not be allowed and Diversified's application should be denied.

11 DATED this 25th day of January, 2005.

12 FENNEMORE CRAIG, P.C.

13 By: \_\_\_\_\_

Jay L. Shapiro

Attorney for Johnson Utilities Company

14  
15 ORIGINAL and 13 copies delivered this  
16 25th day of January, 2005, to:

17 Docket Control  
18 Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

19 COPY hand-delivered this 25th day of January, 2005:

20 Dwight Nodes, Assistant Chief Administrative Law Judge  
21 Hearing Division  
22 Arizona Corporation Commission  
1200 West Washington Street  
Phoenix, Arizona 85007

23  
24  
25 <sup>1</sup> Theoretically, Diversified could file a competing application. However, JUC's application in this  
26 docket is supported by requests from service by the landowners. Thus, a competing application by  
Diversified would not likely be deemed sufficient by Staff.

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7 AND A COPY mailed this 25th day of January, 2005 to:

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